REMARKS/ARGUMENTS

     Claims 1-23 and 33 are currently pending in the instant application. Claim 33 is newly added. Claims 1-23 and 32 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 7,043,635. Claims 1-23 and 32 are rejected under 35 U.S.C. §103(a). Applicant respectfully traverses the rejections in their entirety. Applicant thanks the Examiner for withdrawing the objection to the abstract.

<p align="center">Claims 1-23 and 32 are patentable over U.S. Patent No. 7,043,635</p>

     The Examiner provisionally rejected claims 1-23 and 32 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 7,043,635. Applicant respectfully traverses the rejection as the claims are directed to distinct inventions. However, in an effort to expedite examination of the instant application, Applicant has filed herewith a Terminal Disclaimer obviating the rejection. Applicant respectfully requests that the Examiner withdraw the rejection.

<p align="center">Claim Rejections – 35 U.S.C. §103</p>

     Claims 1 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Walker, further in view of Corder. Applicant respectfully traverses the rejection for at least the reasons set forth below. The encryption algorithms employed in Walker are too computationally intensive for typical users to use in generating a user transaction input code at the time of a transaction, and Walker clearly leads one of ordinary skill in the art away from the present invention as claimed. The Court of Appeals for the Federal Circuit has consistently held that it is "error to find obviousness where references 'diverge from and teach away from the invention at hand'." In re Fine, 5 U.S.P.Q. 2d 1596, 1599 (Fed. Cir. 1988). Walker describes an identity verification secure transaction system (See Abstract) wherein a host compares a locally generated transaction code with a user transaction input code determined by applying the user code to a security string. (Column 11, lines 20-62.) The user transaction input code in Walker is generated by an electronic device utilizing <u>computationally intensive encryption algorithms</u>, such as Triple-DES, IDEA, Blowfish, RC4, SEAL, and A5 (Column 10, lines 6-9), which are by nature too complex to be implemented by a user during the course of a conventional transaction. Walker indicates that these encryption algorithms should be implemented on and by the electronic device. Further, Walker indicates that "the cryptography described herein requires binary data." (Column 7, line 52.) The typical user is not capable of, and would be

inconvenienced by manually performing cryptographic operations on binary data during a transaction. By contrast, in the claimed invention the user transaction input code may be generated by selecting characters from the pseudo-random security string on a positional basis determined by each digit of the user pin. (Paragraph [0018].) The fact that Walker uses computationally intensive encryption algorithms that require binary data teaches away from the user transaction code being generated in a manner which would be practical for a user to perform during a transaction as claimed and renders Walker inapplicable to the pending claims. Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 1 and 15.

Claims 2-14 and Claim 32 depend from Claim 1 and Claims 16-23 depend from Claim 15. The Court of Appeals for the Federal Circuit has consistently held that where a claim is dependent upon a patentable independent claim, the dependent claim is *a fortiori* patentable because it contains all the limitations of the independent claim plus further limitations. See, e.g., Hartness Intern. Inc. v. Simplimatic Engineering Co., 819 F.2d 1100, 1108 (Fed. Cir. 1987). Applicant therefore asserts that Claims 2-14 and 16-23 are patentable for at least the reasons set forth above with respect to the patentable independent claims from which they depend, and respectfully requests that the Examiner withdraw the rejection of these dependent claims.

CONCLUSION

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. Additional distinctions may exist between the invention as recited in the pending claims and the references cited by the Examiner, and Applicant respectfully reserves the right to assert these arguments in response to a future Office Action. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is courteously requested to contact applicant's undersigned representative.

The Commissioner is further authorized to charge any deficiencies that necessitate the entry and consideration of this paper or credit any overcharges to Deposit Account No. **50-0653**.

Respectfully submitted,

/ James E. Goepel /

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